

05/15/1996

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Albert M. Hand, Jr.

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RECEIVED

May 15, 1996

MAY 15 1996

ROBERT H. SHEMWELL, CLERK  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT, LOUISIANA

HAND DELIVER

Honorable Robert H. Shemwell  
Clerk of Court  
United States District Court  
Western District of Louisiana  
300 Fannin Street  
Shreveport, LA 71101

RE: Crystal Oil Company and Crystal Exploration and  
Production Company vs. Atlantic Richfield Company  
Civil Action No. CV 95-21159, United States District  
Court, Western District of Louisiana, Shreveport Division

Dear Mr. Shemwell:

I am enclosing the original and one (1) copy of the following documents:

1. Motion To Refer Bankruptcy Discharge Issue To The Bankruptcy Court; and
2. Memorandum In Support Of Crystal's Motion To Refer Bankruptcy Discharge Issue To The Bankruptcy Court.

Please be kind enough to file the original in the above proceedings and to return a stamped copy.

Courtesy copies of these documents will also be delivered to Magistrate Judge Roy Payne.

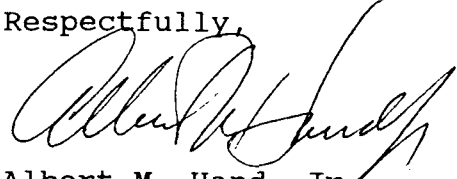
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COOK, YANCEY, KING & GALLOWAY

Honorable Robert H. Shemwell  
May 15, 1996  
Page 2

With kindest regards, I am

Respectfully,

A handwritten signature in dark ink, appearing to read "Albert M. Hand, Jr.", written in a cursive style.

Albert M. Hand, Jr

AMH/dm

Enclosures

cc: Honorable Roy S. Payne - (w/encl)  
Mr. W. Michael Adams - (w/encl)  
Mr. Roger L. Freeman - (w/encl)  
Mr. Lary D. Milner - (w/encl)

U. S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

FILED

MAY 15 1996

ROBERT H. SHENWELL, CLERK

BY                      DEPUTY

**CRYSTAL OIL COMPANY,  
AND CRYSTAL EXPLORATION AND  
PRODUCTION COMPANY,**

## Plaintiffs

**V.**

**ATLANTIC RICHFIELD COMPANY,**

**Defendant**

**Civil Action No. CV 95-2115S**

**JUDGE TOM STAGG**

**MAGISTRATE JUDGE PAYNE**

**MOTION TO REFER BANKRUPTCY  
DISCHARGE ISSUE TO THE BANKRUPTCY COURT**

NOW INTO COURT, through undersigned counsel, comes plaintiff Crystal Oil Company ("Crystal") which, with respect, files this motion requesting that this Court refer the proceedings with respect to the ARCO Bankruptcy Discharge Issue, as defined below, to the Bankruptcy Court pursuant to 28 U.S.C. § 157(a) and Uniform Louisiana Local Rule 22.01W, for the reasons set forth below:

1.

On November 30, 1995, Crystal and Crystal Exploration and Production Company ("CEPCO") filed their Original Complaint for Declaratory Judgment of Crystal Oil Company and Crystal Exploration and Production Company ("Complaint") in these proceedings.

2.

Prior thereto, Atlantic Richfield Company ("ARCO") had asserted that Crystal and CEPCO were liable to ARCO under the Comprehensive Environmental Response,

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Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, and other environmental statutes for the cost of cleaning up an old mining site.

3.

Crystal and CEPCO filed the Complaint seeking a declaratory judgment (1) that CEPCO has no liability to ARCO because of ARCO's predecessor's contractual assumption of liability and release contained in the contract of sale of the subject property from CEPCO to ARCO's predecessor ("Contract Release Issue") and (2) that Crystal has no liability to ARCO because of the discharge Crystal received pursuant to the terms of the final non-appealable Order Confirming Plan ("Confirmation Order") dated December 31, 1986, entered by the United States Bankruptcy Court for the Western District of Louisiana, the provisions of Crystal's Second Amended and Restated Plan of Reorganization ("Plan") and the provisions of the Bankruptcy Code which, among other things, enjoin the prosecution of such discharged claims ("ARCO Bankruptcy Discharge Issue").

4.

Crystal filed its Complaint in this Court because this Court clearly had jurisdiction to determine both the ARCO Bankruptcy Discharge Issue with respect to Crystal and the Contract Release Issue with respect to CEPCO.

5.

Subsequently, by letter dated December 29, 1995, the State of Louisiana through the Department of Transportation and Development ("State DOTD") and by letter dated January 19, 1996, the State of Louisiana through the Department of Environmental Quality ("State DEQ")

notified Crystal of potential liability under the Louisiana Environmental Quality Act with respect to two (2) other sites.

6.

Neither CEPCO, as a party, nor the Contract Release Issue is involved in either of the claims brought by the State of Louisiana.

7.

On April 19, 1996, Crystal filed a Motion to Reopen Case in the United States Bankruptcy Court for the Western District of Louisiana pursuant to the authority of Section 350(b) of the Bankruptcy Code and Local Bankruptcy Rule 5010 for the purpose of enforcing the Confirmation Order and for enforcing the Bankruptcy Court's previously issued Bar Date Order prohibiting the filing of claims after a certain date.

8.

Crystal attached to its Motion to Reopen Case a motion titled Motion to Enforce Confirmation Order and Bar Date Order which set forth in detail the factual basis upon which Crystal is seeking relief and the relief sought from the Bankruptcy Court.

9.

By order dated April 19, 1996, the Bankruptcy Judge reopened the Crystal case as Case No. 586-02834 on the docket of the United Bankruptcy Court for the Western District of Louisiana, Shreveport Division.

10.

On April 19, 1996, Crystal filed its Motion to Enforce Confirmation Order and Bar Date Order in the bankruptcy case naming as a party therein the State DEQ and State DOTD. This

motion alleges that Crystal has no liability to State DOTD or State DEQ because of the discharge Crystal received pursuant to the terms of the Confirmation Order, the Plan, and the provisions of the Bankruptcy Code which, among other things, enjoin the prosecution of such discharged claims (the "State Bankruptcy Discharge Issues").

11.

A scheduling conference has been set by the Bankruptcy Judge for May 23, 1996, to set dates for discovery and hearings on the Motion to Enforce Confirmation Order and Bar Date Order.

12.

The legal issues with respect to the discharge of Crystal, the effect of the Confirmation Order, the effect of the Plan, and the effect of the Bankruptcy Code are the same with respect to the State Bankruptcy Discharge Issues and the ARCO Bankruptcy Discharge Issue.

13.

The factual issues in dispute are similar with respect to the State Bankruptcy Discharge Issues and the ARCO Bankruptcy Discharge Issue.

14.

Uniform Louisiana Local Rule 22.01W and Local Bankruptcy Rule 1.2 both provide:

Under the authority of 28 U.S.C. § 157 the district court refers to the bankruptcy judges of this district all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to a case under Title 11.

15.

The ARCO Bankruptcy Discharge Issue arises under the Bankruptcy Code and arises in and is related to Crystal's bankruptcy case.

16.

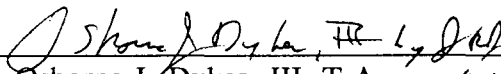
It will promote judicial economy and consistency of result to permit the Bankruptcy Court to decide the Bankruptcy Discharge Issues, whether they relate to the State of Louisiana or to ARCO.

WHEREFORE, Crystal respectfully requests that this Court refer the ACRO Bankruptcy Discharge Issue to the Bankruptcy Court under 28 U.S.C. § 157(a) and Uniform Louisiana Local Rule 22.01W.

RESPECTFULLY SUBMITTED,

**FULBRIGHT & JAWORSKI L.L.P.**

By:

  
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Zack A. Clement

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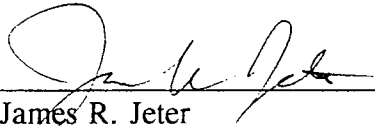
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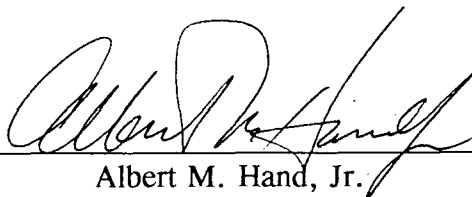
**ATTORNEYS FOR PLAINTIFFS,  
CRYSTAL OIL COMPANY AND  
CRYSTAL EXPLORATION AND  
PRODUCTION COMPANY**



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that in compliance with the Federal Rules of Civil Procedure, on this 15th day of May, 1996, a copy of the above and foregoing pleading has been served on counsel for Defendant, Atlantic Richfield Company, by placing a copy of same in the United States mail, properly addressed and with adequate postage affixed thereon to:

1. Mr. W. Michael Adams  
Blanchard, Walker, O'Quin & Roberts  
P.O. Box 1126  
Shreveport, Louisiana 71163-1126
2. Mr. Roger L. Freeman  
Davis Graham & Stubbs, L.L.C.  
370 Seventeenth Street, Suite 4700  
Denver, Colorado 80202
3. Mr. Lary D. Milner  
Senior Counsel, ARCO  
Legal Department  
555 Seventh Street  
Denver, Colorado 80202

  
Albert M. Hand, Jr.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

U. S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

FILED

MAY 15 1996

ROBERT H. SHERWELL, CLERK  
BY  DEPUTY

CRYSTAL OIL COMPANY,  
AND CRYSTAL EXPLORATION AND  
PRODUCTION COMPANY,

Plaintiffs

v.

ATLANTIC RICHFIELD COMPANY,

Defendant

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Civil Action No. CV 95-2115S

JUDGE TOM STAGG

MAGISTRATE JUDGE PAYNE

**MEMORANDUM IN SUPPORT OF CRYSTAL'S MOTION TO REFER  
BANKRUPTCY DISCHARGE ISSUE TO THE BANKRUPTCY COURT**

**FULBRIGHT & JAWORSKI L.L.P.**

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ATTORNEYS FOR PLAINTIFFS

May 15, 1996

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

CRYSTAL OIL COMPANY,  
AND CRYSTAL EXPLORATION AND  
PRODUCTION COMPANY,

Plaintiffs

v.

ATLANTIC RICHFIELD COMPANY,

Defendant

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Civil Action No. CV 95-2115S

JUDGE TOM STAGG

MAGISTRATE JUDGE PAYNE

**MEMORANDUM IN SUPPORT OF CRYSTAL'S MOTION TO REFER  
BANKRUPTCY DISCHARGE ISSUE TO THE BANKRUPTCY COURT**

Plaintiff Crystal Oil Company ("Crystal") files this memorandum in support of its motion requesting that this Court refer the bankruptcy issues presented in this case to the Bankruptcy Court pursuant to 28 U.S.C. § 157(a) and Uniform Louisiana Local Rule 22.01W.

Background

On November 30, 1995, Crystal and Crystal Exploration and Production Company ("CEPCO") filed their Complaint with this Court, seeking a determination (1) that ARCO's claim against Crystal for environmental clean up at the Rico mine (the "ARCO Environmental Claim") was discharged in Crystal's 1986 bankruptcy case and is now enjoined by the terms of the Bankruptcy Code (the "ARCO Bankruptcy Discharge Issue")<sup>1/</sup> and (2) that when CEPCO

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<sup>1/</sup> There is substantial reason to believe that ARCO has committed a § 524 violation here because it knew about Crystal's bankruptcy and knew about the ARCO Environmental Claim but did not file it in Crystal's bankruptcy case. Even before receiving any discovery from ARCO, Crystal has learned that ARCO appeared at Crystal's bankruptcy plan confirmation hearing and filed a proof of claim before the Bar Date in Crystal's bankruptcy case, but made no environmental claim against Crystal relating to the Rico mine, even though ARCO

sold the Rico mine to ARCO's predecessor, the parties contracted that ARCO would bear any environmental clean up costs relating to that mine (the "Contract Release Issue").<sup>2/</sup>

Crystal filed its Complaint in this Court because this Court clearly has jurisdiction to determine both the ARCO Bankruptcy Discharge Issue (concerning Crystal) and the Contract Release Issue (concerning CEPCO), recognizing that this Court has the power to refer the ARCO Bankruptcy Discharge Issue and related matters to the Bankruptcy Judge for this District who presided over Crystal's 1986 bankruptcy case and whose Bar Order and Confirmation Order are at issue here.

#### Reopening of Crystal's Bankruptcy Case

After filing its Complaint against ARCO, Crystal learned that the State of Louisiana is asserting two other environmental claims against Crystal which were also discharged in Crystal's 1986 Bankruptcy Case. One of those claims involves property that Crystal had not owned for 20 years, where Crystal had never operated a refinery and someone else had operated a refinery 40 years ago. A State Department of Environmental Quality ("State DEQ") inspector had visited this old refinery site six months before the Bar Date in Crystal's bankruptcy case and noted that oil was "oozing out" of the ground and that "Crystal" had once owned this land (the "Shoreline Claim"). As to the other claim, Louisiana Department of Transportation and Development

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knew when it filed its proof of claim in October 1986 that ARCO, taking full responsibility for all environmental problems save one \$30,000 item, had bought the Rico mine from Crystal's wholly owned subsidiary (CEPCO), and that ARCO had been taking actions since the early 1980's to stabilize the slope around the mine to abate water filtering through silver tailings sitting on the surface there and draining into the creek at the bottom of the hill. Indeed, when it filed its proof of claim in October 1986, ARCO had already had a visit from the United States EPA in which there were discussions about whether this water run-off was causing a violation of CERCLA.

<sup>2/</sup> Plaintiffs assert that the Contract Release Issue can be determined from the unambiguous terms of the contract by which CEPCO sold the RICO mine to ARCO's predecessors. This Court need do nothing more than read this contract to conclude that ARCO agreed to be responsible for any environmental claims relating to the RICO mine.

("State DOTD") prepared an environmental impact statement concerning land it acquired for use in building Interstate 49. This statement should have revealed any environmental clean up claims. The State later found pollution when it actually built a highway through the land it had acquired. The State DOTD then made claims against Crystal to clean up this site, even though Crystal had not owned this land or operated a refinery there for 50 years (the "I-49 Claim").

Crystal presented the issue of whether the Shoreline Claim and the I-49 Claim were discharged in Crystal's 1986 bankruptcy case and are thus now enjoined from being prosecuted by the terms of the Bankruptcy Code (the "State Bankruptcy Discharge Issues") directly to the Bankruptcy Court because there is no related Contract Release Issue concerning a non-debtor presented there. Bankruptcy Judge Callaway reopened Crystal's bankruptcy case and set a status conference for May 23, 1996 to schedule discovery and resolution of the State Bankruptcy Discharge Issues.

Bases For Reference of the  
ARCO Bankruptcy Discharge Issue to the Bankruptcy Court

Because the State Bankruptcy Discharge Issues are now before the Bankruptcy Court, Crystal believes it appropriate to request that this Court refer the ARCO Bankruptcy Discharge Issue to the Bankruptcy Court for decision so that all these similar issues can be decided efficiently by one court under a consistent approach. Title 28 U.S.C. § 157(a) permits this Court to refer to the Bankruptcy Court cases which arise under Title 11 and any and all proceedings that arise under Title 11 or arise in or are related to a bankruptcy case. Indeed, this Court has issued a standing order (the "Order of Reference") that "refers" all such claims to the Bankruptcy Court:

## 22.01W Reference to Bankruptcy Judge

Under the authority of 28 U.S.C. § 157 the district court refers to the bankruptcy judges of this district all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to a case under Title 11.

Uniform Louisiana Local Rule 22.01W (emphasis added). Local Bankruptcy Rule 1.2 uses exactly the same language.

The ARCO Bankruptcy Discharge Issue meets all three of these standards as they have been defined by the Fifth Circuit in *Wood v. Wood (In re Wood)*, 825 F.2d 90, 96 (5th Cir. 1987). There, Judge Wisdom, writing for the Court, defined "arising under" as concerning "proceedings that involve a cause of action created or determined by a statutory provision of title 11." 825 F.2d at 96. An example would be the discharge injunction that is created by § 524 and the discharge which is granted by § 1141 of the Bankruptcy Code.

"Arising in" concerns those "'administrative' matters that arise only in bankruptcy cases . . . not based on any right expressly created by title 11, but [which] would have no existence outside of the bankruptcy." 825 F.2d at 97. Judge Wisdom gave as an example of this "an objection to the discharge of a particular debt." *Id.*

"Related to" matters were those as to which the outcome "could conceivably have any effect on the estate being administered in bankruptcy." 825 F.2d at 93.<sup>3/</sup>

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<sup>3/</sup> *Wood* held further that, for the purpose of determining bankruptcy court jurisdiction, it is not necessary to distinguish between proceedings arising under, arising in or related to a case under title 11, as long as the matter "is at least 'related to' the bankruptcy" case. 825 F.2d at 93. Several Fifth Circuit cases have followed this principle. See, e.g., *Feld et al v. Zale Corporation et al (In re Zale Corporation)*, 62 F.3d 746 (5th Cir. 1995):

We need not identify which jurisdictional provision specifically applies because the provisions operate in conjunction. *In re Walker*, 51 F.3d at 568-69; accord *Querner v. Querner (In re Querner)*, 7 F.3d 1199, 1201 (5th Cir. 1993); see also *Wood v. Wood (In re Wood)*, 825 F.2d 90, 93 (5th Cir. 1987) ("For the purpose of determining whether a particular matter falls within bankruptcy jurisdiction, it is not necessary to distinguish

There can be no doubt that the ARCO Bankruptcy Discharge Issue and the State Bankruptcy Discharge Issues each present the type of "case" and/or "proceeding" that this Court's Order of Reference contemplates being referred to the Bankruptcy Court. Each of these proceedings arises under § 1141 of the Bankruptcy Code (which provides for the discharge of claims) and § 524 of the Bankruptcy Code (which enjoins parties from asserting claims which have been discharged).

Each of these proceedings involves construction of the Bar Order and Confirmation Order entered by Bankruptcy Judge Callaway in Crystal's bankruptcy case, which "would have no existence outside of the bankruptcy." 825 F.2d at 97. Indeed, the question presented by the ARCO Bankruptcy Discharge Issue (whether ARCO has asserted a discharged claim) is simply the converse of the example Judge Wisdom used in *Wood* as an example of an "arising in" matter -- "an objection to the discharge of a particular debt." 825 F.2d at 97.

Finally, each of these proceedings is related to Crystal's bankruptcy case because, if successful, they will have a substantial impact on the value that was given to creditors under Crystal's Chapter 11 plan of reorganization. Creditors voted on Crystal's plan of reorganization in reliance on Judge Callaway's Bar Order and the provisions of the plan which assumed claims no greater than the amount that had been filed as of the time of the bar date set by the Bar Order. The plan discharged these creditors' claims and, in many classes, gave them equity stock in the reorganized Crystal in exchange.

---

between proceedings 'arising under,' 'arising in a case under,' or 'related to a case under,' title 11. "). "Instead, to ascertain whether jurisdiction exists, 'it is necessary only to determine whether a matter is at least "related to" the bankruptcy.'" *In re Walker*, 51 F.3d at 569 (quoting *In re Wood*, 825 F.2d at 93) (other citations omitted. *Id.* at 751.

62 F.3d at 752.

Additionally, there are sound policy reasons to refer the ARCO Bankruptcy Discharge Issue to Bankruptcy Judge Callaway. Since the Bankruptcy Court is currently deciding the State Bankruptcy Discharge Issues, it would promote efficient use of judicial resources to have the Bankruptcy Court also decide the ARCO Bankruptcy Discharge Issue. The issues presented there are similar to those presented here concerning ARCO.<sup>4/</sup> Moreover, it makes sense to permit the Bankruptcy Court to apply appropriate legal principles and construe its own orders on a consistent basis to decide all three of the Bankruptcy Discharge Issues -- the two involving the State and the one involving ARCO.

The ARCO Bankruptcy Discharge Issue is inherently the kind of issue that should be decided by the Court which entered the Confirmation Order and the Bar Order. Deciding the issue will involve, at a minimum, determining:

- (1) whether assertion of the ARCO counterclaim (and all other assertions of the ARCO Environmental Claim) is a violation of the discharge injunction of § 524(a)(2) & (3) of the Bankruptcy Code, 11 U.S.C.A.

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<sup>4/</sup> As the Fifth Circuit noted in *Zale*, Congress intended to concentrate matters related to a bankruptcy case in the Bankruptcy Court.

[Section 1334's] reference to cases related to bankruptcy cases is primarily intended to encompass tort, contract, and other legal claims against the debtor, claims that, *were it not for bankruptcy*, would be ordinary stand-alone lawsuits between the debtor and others but that section 1334(b) allows to be forced into bankruptcy court so that all claims be and against the debtor can be determined in the same forum. A secondary purpose is to force into the bankruptcy court suits to which the debtor need not be a party but which may affect the amount of property in the bankrupt estate. Once they are shoehorned into the bankruptcy court on the authority of section 1334(b), such suits can then be stayed by authority of the Bankruptcy Code . . .

*Zerand-Bernal Group, Inc. v. Cox*, 23 F.3d 159, 161-62 (7th Cir. 1994) (citations omitted) (emphasis added). Accordingly, when we define "related to" jurisdiction, we should "avoid the inefficiencies of piecemeal adjudication and promote judicial economy by aiding in the efficient and expeditious resolution of all matters connected to the debtor's estate." *In re Lemco Gypsum, Inc.*, 910 F.2d at 787.

*Id.* at 751.



§ 524(a)(2) & (3), which became operative when the bankruptcy court entered the Confirmation Order, including all the findings subsidiary to such a determination;

(2) whether ARCO is in contempt of court for its violation of such injunction; and

(3) whether the ARCO Environmental Claim was barred when it was not filed within the time set by the Bar Order.

In *Celotex v. Edwards*, \_\_\_ U.S. \_\_\_, 115 S.Ct. 1493, 1498 (1995) (citing *GTE Sylvania, Inc. v. Consumers Union of United States, Inc.*, 445 U.S. 375, 386 (1980)), the Supreme Court emphasized that the place to seek relief from a bankruptcy court injunction is the bankruptcy court which issued it. 115 S.Ct. at 1501. The respondents in *Celotex* had chosen instead to collaterally attack the § 105(a) injunction entered by a Florida bankruptcy court in a Texas federal court. *Id.* at 1496. The Supreme Court held that they could "not be permitted to do [this] without seriously undercutting the orderly process of the law." *Id.* at 1501. Indeed, if a party, like ARCO, violates a § 524 discharge injunction, without prior permission from the court which issued it, that party may be subject to sanctions for contempt. *See, e.g., In re Texaco, Inc.*, 182 B.R. 937 (Bankr. S.D.N.Y. 1995).

Indeed, the *Texaco* opinion provides a number of reasons why a bankruptcy judge should decide a Bankruptcy Discharge Issue. In *Texaco*, twenty Louisiana land owners instituted suit in a Louisiana state court alleging subsurface contamination from Texaco's salt water storage pits, five years after Texaco's Chapter 11 plan was confirmed and two years after the case was closed. Texaco asserted its bankruptcy discharge as an affirmative defense in state court. *Id.* at 942.

Additionally, Texaco went to the bankruptcy court in New York which had administered its Chapter 11 case and asked it to determine whether these landowners had violated the § 524 discharge injunction when they had asserted this claim against Texaco. The landowners complained that (1) the bankruptcy court did not have jurisdiction over this claim, (2) the Bankruptcy Court should abstain from hearing this issue in favor of the prior filed state court lawsuit and (3) venue of this issue should be transferred to where the state court lawsuits were pending.

The *Texaco* opinion rejected each of the landowners' contentions. As to jurisdiction, the bankruptcy court "recogniz[ed] [even in the face of a prior pending state court action] that it is essential for a bankruptcy court to have jurisdiction to adjudicate controversies respecting, and to enforce, its own orders. . . ." *Id.* at 944. The bankruptcy court reasoned further that it had jurisdiction to decide violations of the § 524 discharge injunction because:

a bankruptcy court has subject matter jurisdiction to enforce and interpret its own orders. This court has jurisdiction to entertain this motion to enforce the Texaco Plan as it relates to claims discharged under this Court's order confirming the Plan and 11 U.S.C. §§ 524 and 1141.

*Texaco*, 182 B.R. at 944 (emphasis added).

As to abstention, the bankruptcy court held it was not required to abstain because Texaco's motion was based on § 524 of the Bankruptcy Code and the Confirmation Order, not on a state law cause of action. *Id.* The Bankruptcy Court declined to exercise its discretion to abstain from hearing the claim of § 524 violation issue in favor of the prior pending state court action, saying:

I am not required to abstain from deciding issues which are of central importance to the integrity of the bankruptcy process.

. . . Because contempt is an affront to the court issuing the order, enforcement of an injunction through a contempt proceeding must occur in the issuing jurisdiction regardless of the state in which the alleged violation of the court order may have occurred. . . .

*Texaco*, 182 B.R. at 946-47 (quoting *Hamilton Allied Corp. v. Kerkau Mfg. Co.*, 87 B.R. 43 (Bankr. S.D. Ohio 1988)); see also *Waffenschmidt v. MacKay*, 763 F.2d 711, 716 (5th Cir. 1985), *cert. denied*, 474 U.S. 1056 (1986). The court further held that "[a] bankruptcy court is undoubtedly the best qualified to interpret and enforce its own orders including those providing for discharge and injunction and, therefore, should not abstain from doing so" absent extraordinary circumstances. *Texaco*, 182 B.R. at 947 (citing *In re Chicago, Milwaukee, St. Paul & Pac. Ry. Co.*, 6 F.3d 1184, 1185-86 (7th Cir. 1993)).

As to the request to transfer venue away from the bankruptcy court to the location of the prior pending state court action, the *Texaco* court noted that:

The authorities cited and discussed above on the issue of abstention strongly support the proposition that the issuing court is in the best position to interpret and enforce its own orders. In this case, that precept is also applicable to the venue objection, given the unusual aspects of the unprecedented *Texaco* bankruptcy and the arguments advanced by counsel on the merits of this motion, discussed below. Moreover, a movant's choice of forum is entitled to some deference.

*Id.* at 948 (emphasis added). See also *In re Manville Forest Prod. Corp.*, 816 F.2d 1384 (2nd Cir. 1990) ("the district in which the underlying bankruptcy case is pending is presumed to be the appropriate district for hearing and determination of a proceeding in bankruptcy").

Here, as in *Texaco*, the same factors that support retention of venue also support reference of the ARCO Bankruptcy Discharge Issue to the Bankruptcy Court. Of all the Courts that can hear that issue, the Bankruptcy Court which entered the Bar Order and the Confirmation Order in *Crystal's* bankruptcy case is the most appropriate.

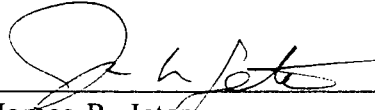
Accordingly, it is clear that a compelling case exists for this Court to refer the ARCO Bankruptcy Discharge Issue to the Bankruptcy Court. That issue arises under, arises in, and is related to Crystal's bankruptcy case and thus should be referred to the Bankruptcy Court under this Court's standing Order of Reference. This will promote judicial economy in deciding the Bankruptcy Discharge Issue as to both the State and ARCO, and greater consistency of decision of this Issue. Moreover, the Bankruptcy Court is in the best position to construe its own Confirmation Order and Bar Order as a foundation to determining whether ARCO has violated the Bankruptcy Code by asserting a claim that was discharged in Crystal's bankruptcy case.

RESPECTFULLY SUBMITTED,

**FULBRIGHT & JAWORSKI L.L.P.**

By: Osborne J. Dykes III by J. M.  
Osborne J. Dykes, III, T.A. *with permission*  
Texas State Bar No. 0632550  
Zack A. Clement  
Texas State Bar No. 04361550  
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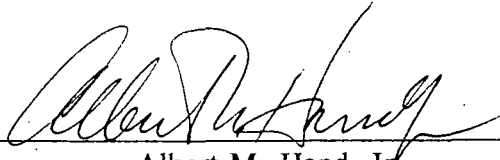
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**ATTORNEYS FOR PLAINTIFFS,  
CRYSTAL OIL COMPANY AND  
CRYSTAL EXPLORATION AND  
PRODUCTION COMPANY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that in compliance with the Federal Rules of Civil Procedure, on this 15th day of May, 1996, a copy of the above and foregoing has been served on counsel for Defendant, Atlantic Richfield Company, by placing a copy of same in the United States mail, properly addressed and with adequate postage affixed thereon to:

1. Mr. W. Michael Adams  
Blanchard, Walker, O'Quin & Roberts  
P.O. Box 1126  
Shreveport, Louisiana 71163-1126
2. Mr. Roger L. Freeman  
Davis Graham & Stubbs, L.L.C.  
370 Seventeenth Street, Suite 4700  
Denver, Colorado 80202
3. Mr. Lary D. Milner  
Senior Counsel, ARCO  
Legal Department  
555 Seventh Street  
Denver, Colorado 80202

  
\_\_\_\_\_  
Albert M. Hand, Jr.



**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION**

CASE NO: 5:95CV2115

JUDGE STAGG  
MAGISTRATE JUDGE PAYNE

CASE TITLE: CRYSTAL OIL CO ET AL VS ATLANTIC RICHFIELD CO

**NOTICE OF SETTING OF MOTION**

The motion to refer bankruptcy discharge issue to the Bankruptcy Court filed by Crystal Oil Co on **May 15, 1996** will be submitted to the Honorable Roy S. Payne on the **June 17, 1996** Motion Day at Shreveport, Louisiana. A written ruling will be issued in due course.

A COPY OF ALL BRIEFS MUST BE DELIVERED TO CHAMBERS WHEN FILED. Opposing briefs are due within 15 calendar days from the date of this notice and reply briefs may be filed, without leave of Court, within 5 business days thereafter. Local Rule 4W governs the length of briefs. Any party filing no brief will be deemed not to oppose the motion.

It is the policy of the Court to decide motions on the basis of the record without oral argument. Accordingly, responses and briefs should fully address all pertinent issues. Should the Court feel oral argument is necessary, all parties will be notified.

If the parties resolve any matters raised in this motion, the moving party should immediately notify Magistrate Judge Payne at 318/676-3265.

Shreveport, Louisiana, on May 16, 1996.

ROBERT H. SHEMWELL, Clerk of Court

By:   
Deputy Clerk

COPY SENT:

DATE: May 16, 1996  
BY: om  
TO: Cassanova and  
Dykes, Hand, Adams, Freeman, Milner